



**CITY OF NEWPORT BEACH
ENVIRONMENTAL QUALITY AFFAIRS
COMMITTEE**

AGENDA

DATE/TIME: MONDAY, AUGUST 18, 2003 - 7:00 P.M.

**LOCATION: POLICE DEPARTMENT AUDITORIUM
870 SANTA BARBARA DRIVE**

Roll Call

1. Introduction of New Member
2. Minutes of July 21, 2003 (*Draft Minutes Attached*)
3. Report from Subcommittee on South Coast Shipyard Draft Mitigated Negative Declaration (DMND) (*Draft Report Attachment*)
4. Report from Subcommittee on Pacific Medical Plaza Notice of Preparation (NOP) (*Draft Report Attachment*)
5. Report from EQAC Member to GPUC
6. Report from EQAC Members on GPAC
7. Report on LCP Process
8. Report from Staff on Current Projects
9. Council Member Reports
10. Public Comments
11. Future Agenda Items

**NEXT MEETING
DATE:**

SEPTEMBER 15, 2003

LOCATION:

Police Department Auditorium

*Draft Attachment can be found on the City's website <http://www.city.newport-beach.ca.us/> click on **City Council** and then click on **Agendas and Minutes**. The attachments are also available for pick-up in the City of Newport Beach Planning Department at 3300 Newport Boulevard, Building C, Second Floor.

Top of Page



CITY OF NEWPORT BEACH
ENVIRONMENTAL QUALITY AFFAIRS
COMMITTEE

Draft Minutes July 21, 2003

Minutes of the Environmental Quality Affairs Citizens Advisory Committee held at the City of Newport Beach Police Department Auditorium, 870 Santa Barbara Drive, on July 21, 2003.

Members Present:

Richard Nichols, Council Member
Robert Hawkins, Chairperson
Gary Borquez
Gus Chabre
Brent Cooper
Laura Dietz
Thomas Eastmond
Ray Halowski
Carol Hoffman

Tom Hyans
Phillip Lugar
Elaine Linhoff
Phillip Lugar
Marge Pantzar
Dolores Otting
Richard Rivett
Cris Trapp
Louis Von Dyl

Staff Representatives:

Sharon Wood, Assistant City Manager

Members not Present:

Steve Bromberg, Mayor
Barry Allen
Jim Miller

Nancy Raney
Christopher Welsh
Jennifer Winn

The meeting was called to order at 7:07 p.m.

Chairman Hawkins congratulated Barry Eaton on his appointment to the Planning Commission.

1. Minutes of June 16, 2003 - **Motion** was made by Ray Halowski to approve the minutes as amended to include "The subcommittee will meet again" in Item #2. Seconded by Marge Pantzar. All ayes.
2. Election of Vice Chair

Motion was made by Ray Halowski to elect Cris Trapp as Vice Chairperson.

Seconded by Marge Pantzar. No other nominations were made and Cris Trapp was elected by acclamation.

3. Report from Membership Subcommittee

The subcommittee recommended to move Cris Trapp from Council Member Nichols At-Large appointment to Environmental Expertise. Council Member Nichols agreed **Motion** was made by a committee member to recommend this change to City Council. All ayes. The remaining vacancies are Council Member Webb's, District 3 and Council Member Nichols' At-Large.

4. Discussion of EQAC Subcommittee System of Developing Comments, Alternative Methods for Developing Comments, and Function of EQAC and Subcommittees

Chairman Hawkins gave the background regarding the Irvine Ranch Water District Natural Treatment System Draft Environmental Impact Report and the need for more participation on that and other subcommittees. Chairman Hawkins asked for ideas. Discussion ensued regarding the need for second subcommittee meetings to review draft comments and the time constraints that make that difficult.

5. Appointment of EQAC Member to GPUC

Motion was made by Carol Hoffman to appoint Chairman Hawkins as EQAC member to GPUC. Seconded by Marge Pantzar. All ayes.

6. Report from EQAC Member on GPAC

Phillip Lugar reported on the discussion of the Biological Resources report. Sharon Wood noted that due to GPAC comments, the City's General Plan update consultant will review the report. It will be presented to EQAC when that review is complete.

7. Report on LCP

Sharon Wood reported that the Coastal Commission Committee staff comments are in; we are trying to meet with the complete Coastal Commission.

8. Report from Staff on Current Projects

Sharon Wood reported on the following:

- Newport Technology Center is doing a new traffic study on the change of some square footage from research & design to office. The application is incomplete.
- South Coast Shipyard & Design Center draft Negative Declaration will be released the next week or two.
- St. Andrew's Presbyterian Church Notice of Preparation will be released soon.
- St. Mark Presbyterian Church Notice of Preparation will be released soon.

9. Appointment of Subcommittee to Review Negative Declaration for South Coast Shipyard Project

The following were appointed to the South Coast Shipyard subcommittee:

Carol Hoffman	Cris Trapp
Louis Von Dyl	Tom Hyans
Brent Cooper	Phillip Lugar

10. Appointment of Subcommittee for the Notice of Preparation Environmental Impact Report - Pacific Medical Plaza (1626 and 1640 Newport Boulevard, Costa Mesa, CA

The following were appointed for the Pacific Medical Plaza subcommittee:

Richard Rivett	Laura Dietz
Marge Pantzar	Ray Halowski
Gus Chabre	Dolores Otting

11. Council Member Reports

Council Member Nichols commented some the residential and commercial zoning issues may need looking at.

12. Public Comments

None

13. Future Agenda items

- Background on Access Issues at Balboa Bay Club
- Bio Diesel - Ray Halowski to arrange presentation
- Presentation on Harbor Issues - How they integrate with the Local Coastal Program

Chairman Hawkins adjourned the meeting at 8:12 p.m.

Top of page

Memorandum

DRAFT

To: Environmental Quality Affairs Citizens Advisory Committee
City of Newport Beach

From: Sub-Committee on the South Coast Shipyard & Design Center DMND
City of Newport Beach

Subject: South Coast Shipyard & Design Center (the "Project") Draft Initial Study
Mitigated Negative Declaration ("DMND")

Date: August 13, 2003

Thank you for the opportunity to comment on the Draft Mitigated Negative Declaration ("DMND") for the South Coast Shipyard & Design Center Project (the "Project") which is located at 2300 Newport Blvd., Newport Beach, California 92663.

I. Summary of Concerns.

For the reasons discussed below and identified below, we recommend that either a new DEIR or a revised DMND address the following issues:

- 1) The Project Description is too general, has no specifics and should be revised;
- (2) The Project may have impacts on aesthetic resources by failing to provide visual access, by creating conflicts with existing uses, and failing to analyze and discuss the Project's compliance with the Cannery Village/McFadden Square Specific Plan Guidelines;
- (3) The discussion of impacts on soils and geologic resources should be expanded to include a discussion of mitigation, liquefaction and groundwater issues;
- (4) The discussion of hazardous materials should be revised to include a discussion of Project impacts including removal of contaminants and construction of the Project as well as a discussion of mitigation measures;
- (5) The discussion of impacts on water resources including a full discussion of the Project's drainage system, impacts on groundwater, construction impacts on water quality as well as the potential for inundation should be expanded and include a detailed discussion of actual mitigation measures;
- (6) The discussion of land use impacts should address the Project's compliance with the Cannery Village/McFadden Square Specific Plan and conflicts with existing uses including the conflict between

marine and residential uses, between the mass and volume of the Project and existing surrounding uses, and between the Project improvements and existing unimproved uses;

- (7) The discussion of public services should include a full discussion of the Project's impacts on emergency services and, if necessary, specific mitigation or criteria for mitigation of the Project's impacts on public services including on fire prevention resources;
- (8) The discussion of transportation and traffic should address the Project's impacts on transportation and parking resources including a discussion and mitigation of traffic impacts on local intersections rather than a discussion of remote intersections and specific parking impacts and mitigation;
- (9) The discussion of the Project's impacts on recreational opportunities including the creation of commercial uses adjacent to the Bay which may be suitable for marine opportunities including boat launching; and
- (10) The revised DMND and/or DEIR should fully analyze, discuss and describe all mitigation measures and not simply defer this analysis to the Project permitting and approvals.

In addition, we note several typographic errors in the DMND including the following: Page 8 states that the DMND is the appropriate CEQA document for the Project but then states:

"Therefore, the City will prepare an Environmental Impact Report (EIR)

The City need not prepare two documents; presumably, the above is a typographical error and should be struck from the revised document.

Also, Page 9, Incorporation by Reference refers to Page 17; the correct page is 16. Finally, page 40 contains a typographical error: the first paragraph below, item b) reads "ration;" it should be "ratio."

II. Introduction: Legal Standard

CEQA Guidelines section 15070(b) requires that a mitigated negative declaration show that

"project plans or proposals . . . would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur."

Id. (Emphasis added.) Further, environmental documents such as the DMND are reviewed using the "**fair argument standard**."

"Under this test, the agency must prepare an EIR whenever

substantial evidence in the record supports a **fair argument** that a **proposed project may have a significant effect** on the environment. [Citations.] If such evidence is found, it cannot be overcome by substantial evidence to the contrary."

Gentry v. City of Murrieta (1995) 36 Cal. App. 4th 1359, 1399-1400.

However, as discussed above, the DMND may fail to satisfy this fair argument standard. As discussed below, the Project may have several significant impacts which require mitigation.

We recommend that, as concluded below, the Project requires a more complete environmental analysis; the Project requires either the re-circulation of a new DMND with a complete Project Description and a new or revised Traffic Study, or the preparation of a EIR.

III. "Project Description."

The Project description is one of the key parts of any environmental document. As the Court of Appeal in County of Inyo noted long ago,

"Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the 'no project' alternative) and weigh other alternatives in the balance. An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR."

County of Inyo v. City of Los Angeles (1977) 71 Cal. App. 3d 185, 199. In addition, CEQA Guidelines section 15124 requires that an environmental document describe project "in a way that will be meaningful to the public, to the other reviewing agencies, to the decision-makers." Discussion, Guidelines section 15124.

Although adequate in many respects, the "Project Description" is general. The DMND states that the Project includes: construction of 30,000 square feet of commercial uses and 28 residential units of an unspecified size; demolition of over 30,000 square feet of the existing structures; demolition of the existing 485 foot bulkhead; construction of a new bulkhead; reconfiguration of the existing 19 boat slip marina; closure of two existing boat slipways which are used for boat access and berthing; construction of a partially subterranean garage of unspecified size and excavation of an unspecified amount of soil; and remediation of site contaminants.

Much of the Project Description lacks specificity: What types of commercial uses are planned and what is the configuration? How large and how high are the residential structures? Does the Project propose replacement marine and boating uses and access? How large is the parking structure and how much of this is subterranean? How much soil will be excavated for the Project? How much hazardous material will be removed?

Although the DMND may discuss some of these in various subsections, the Project Description is the appropriate place to describe the Project. Project features in other sections may or may not be included in the Project. The revised DMND or a DEIR should provide specifics for all of this and related matters.

(10) "Environmental Checklist."

A. "Aesthetics."

The Checklist indicates that the Project may have less than significant impacts on Aesthetic Resources. However, the DMND reaches this conclusion based on Project features which are not part of the Project description. For instance, the DMND indicates that the Project will include a view corridor and provide new public access pedestrian viewing areas of the bay along the waterfront. The Project description contains none of this.

Moreover, the DMND notes that the existing uses include marine uses and the buildings retain "a maritime flavor." However, the existing view also includes view of the actual marine uses: the public may view the shipyard and its activities. The Project will eliminate this and contains no discussion of any limitation for marine use connection with the commercial development. As you may recall, the Cannery Lofts Project limited uses of commercial areas along the bay to marine uses.

The DMND also concludes that the Project will not adversely affect day or nighttime views. However, as to day time views, the DMND fails to compare the impact of the Project's two story structures with the existing structures. Moreover, the DMND fails to provide in the Project Description any specifics regarding the size, mass, and shape of the proposed structures or of the lighting for the Project. The DMND may contain some specifics in the impacts section regarding these Project features, but as indicated above, adding these features in the impacts analysis may not result in their inclusion in the Project Description.

Mitigation Measure 2 provides no real mitigation: it simply defers mitigation for another day: it provides that the applicant shall provide specific plans regarding lighting prior to issuance of certificates of occupancy or final building permit. This defers mitigation impermissibly.

"By deferring environmental assessment to a future date, the condition runs counter to that policy of CEQA which requires environmental review at the earliest feasible stage in the planning process." *Sundstrom v. County of Mendocino* (1988) 198 Cal. App. 3d 296, 308. See *Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 253, 282 (holding that "the principle that the environmental impact should be assessed as early as possible in government planning."); *Mount Sutro Defense Committee v. Regents of the University of California* (1978) 77 Cal. App. 3d 20, 34 (noting that environmental problems should be considered at a point in the planning process "where genuine flexibility remains").

B. "Biological Resources."

During the development of the Local Coastal Plan, biological resources in the Bay have received heightened scrutiny. In particular, eelgrass resources have

become an important topic and consideration.

According to the Biology-Marine Assessment prepared for the DMND, "(E)elgrass is not currently known to occur in the Rhine Channel" This analysis of existing conditions is inadequate. Existing operations including past dredging may account for the absence of eelgrass.

The DMND or DEIR should address the likelihood that eelgrass occurs in the Bay at the proposed project site, discuss possible maintenance practices that may have prevented it from occurring thus far, and whether or not those maintenance practices will be continued. To the extent that this analysis determines that the site is suitable for eelgrass, the document should analyze any impacts of the Project. If the Project has any impacts, the DEIR or DMND should provide adequate mitigation.

C. "Geology and Soils."

The DMND indicates that the Project could have no significant impacts with the mitigation provided. However, the proposed mitigation is illusory: either it is impermissibly deferred or it is contained in a document which is not part of the DMND itself. For instance, the first Mitigation Measure No. 10 states:

"The project's design and construction shall incorporate the recommendations in the geotechnical report dated August 19, 2002 prepared by Petra Geotechnical, Inc."

(The DMND includes two Mitigation Measures No. 10; from the second Mitigation Measure NO. 10, the mitigation measures should be re-numbered to ensure compliance with mitigation monitoring.) This is nice but it does not satisfy the requirements of CEQA. As indicated above, the CEQA process is an informational one: providing unknown mitigation in an unknown document fails to inform the public. The DMND should be revised as a DEIR and fully discuss the impacts and mitigation proposed.

Also, the DMND states that the Project will have no significant impacts regarding seismic shaking. The DMND recognizes the proximity of known active faults and concludes that such will have no impact. The DMND should be revised and/or the DEIR should address the impacts of such faults on the Project.

In addition, the DMND notes that, although the Project site has a low potential for liquefaction, the Project will have no potential for ground failure including liquefaction with the proposed mitigation measures. Although the Project includes a subterranean garage of unspecified size, the DMND reaches this conclusion without analysis of the impacts of the subterranean garage. Moreover, the DMND notes that groundwater in the area is shallow. Shallow groundwater may exacerbate any impact from the subterranean garage. The DMND should be revised and reissued as a DEIR with discussion and analysis of the size of the subterranean garage, the potential for liquefaction, and a full presentation of the measures proposed in the unknown Petra report.

D. "Hazards and Hazardous Materials."

The DMND states that the Project site has substantial levels of contaminants present. The Project includes removal and remediation of such contaminants. Removal of contaminants may cause a release into the environment, i.e. Newport Bay, with attendant impacts on the public. Moreover, the DMND includes three mitigation measures all of which defer mitigation and any discussion of specific measure until issuance of building permits. Moreover, Mitigation Measure No. 10 is conditioned upon the finding of contaminants. This condition--finding contaminants--should be removed. The DMND states that contaminants are present and must be removed.

The DMND should be revised and/or a DEIR should be prepared to discuss fully the nature and extent of the contaminants at the site, impacts of construction and removal of the contaminants and specific mitigation measures, and related items.

E. "Hydrology and Water Quality."

The DMND appreciates the importance of water quality within the City of Newport Beach and the potential that the Project may adversely affect water quality of the Newport Bay and surrounding resources. Among other things, the DMND states that:

"All on-site surface water will be conveyed to a drainage system that includes catch basin filters and that eventually flows toward the bay."

First, we assume that drainage not only flows towards the bay but into the bay. The DMND should be revised and/or a DEIR should be prepared to analyze and mitigate such impacts.

Second, the DMND and/or the DEIR should fully describe and discuss this drainage system, its capacity, the number of catch basins, the maintenance regime, monitoring and replacing the filters, and other operational and construction protocols.

Third, as indicated above, the Project description contains nothing about a drainage system. As indicated above, the DMND and/or the DEIR should provide full Project description including a description of this system.

Fourth, the DMND states that "the proposed project will have a beneficial impact on water quality" because the existing shipyard will be removed and the site remediated. The DMND fails to discuss at all how this removal and remediation will occur. Indeed, the construction impacts of the Project may be significant: removal of the shipyard may release additional contaminants; remediation of existing contamination may threaten additional releases which will require mitigation. The DMND and/or DEIR should discuss and analyze all of these impacts and provide mitigation if necessary.

Fifth, the DMND concludes that the Project will have no impact on groundwater in the area. However, the DMND analysis of groundwater impacts fails to mention that groundwater in the area is shallow and that the partially subterranean garage may affect groundwater. The revised DMND and/or DEIR should address this issue and provide any necessary mitigation.

Sixth, the DMND notes that the Project site is not within a flood zone.

However, the Project includes removal and replacement of a substantial bulkhead. revised DMND and/or the DEIR should fully discuss and analyze the construction impacts of the Project including the replacement of the bulkhead in connection with flooding. DMND contains no discussion of how the bulkhead will be removed and replaced; under several scenarios, such will cause inundation. The revised DMND and/or the DEIR should fully discuss this impact and provide any necessary mitigation.

F. "Land Use and Planning."

The current land use includes a shipyard and two boat slips, as well as commercial and office uses. The Project will result in the closure of the shipyard and the two boat slips that are used for boat access and berthing. Specific Plan District #6, Cannery Village/McFadden Square, stresses the inclusion of marine-related and marine-related light industrial uses that will accommodate the boating industry in the Specific Plan area. The City and the Harbor are already losing boat repair facilities and such facilities at a minimum in an area with a large boating population. The Project will cause further loss: the loss of the shipyard and boat slips will add to this deficit. The DMND should analyze and address these impacts and propose appropriate mitigation.

Also, as indicated above, the DMND contains no limitations on the character of the commercial uses. The area is prime marine property. As with the Cannery Lofts project, approval of this Project should include some limitation that commercial use should be marine or marine uses given incentives or priorities. The DMND should be revised, and/or a DEIR should be prepared, to address this limitation and include such a condition of approval.

Further, the City of Newport Beach's General Plan, Land Use Element Policy D "requires the siting of new buildings and structures to be controlled and regulated to insure, to the extent practical, the preservation of public views ..." The DMND states the proposed project does not conflict with this policy "unless the loss of public view of Newport Bay currently afforded from Balboa Boulevard over the western 140 feet of property is determined to be highly scenic and highly valuable and irreplaceable." Emphasis added. When and how will that determination be made? This needs to be specifically addressed in the revised DMND or DEIR.

G. "Noise."

The DMND's noise analysis is short sighted and absent minded. The City well remembers several years ago when residents on the Peninsula near the Project site complained about noise in and around the area and caused limits on permits for area restaurants and bars. The DMND fails to appreciate and consider these impacts.

The Project will bring a substantial number of residents to the area. This may result in residents experiencing an above average level of noise from area business restaurants and bars as in the dispute mentioned above.

The DMND should be revised and/or a DEIR prepared which will analyze these potential impacts to the Project residents by surrounding businesses and ensure that

such impacts are not significant. If significant, such impacts should be mitigated by sound proofing or alternative uses, e.g. elimination of the residential units.

H. "Public Services."

The DMND notes that the Project will have no impacts on emergency services including fire and police, and that "adequate access will be provided." However this analysis fails to describe the emergency preparedness features of the Project. The DMND should discuss and describe the emergency access plan. The Project is in the vicinity of the complex and unfriendly confluence of Newport and Balboa Blvds. and near the primary Newport Blvd. bottleneck at 30th Street.

The DMND should be revised and/or a DEIR should be prepared which fully discusses the Project's impacts on emergency access and services including impacts on fire and police services. To the extent that impacts arise, the revised document including DEIR should propose adequate mitigation.

I. "Recreation."

At Page 45, the DMND recognizes the paucity of parkland and recreational facilities and that the Project's increased residents may exacerbate this problem. However, the DMND fails to appreciate the scope of this impact.

The Project as proposed converts commercial/marine uses to residential and commercial uses. As indicated above, the DMND states that the Project will have additional features which are not set forth in the Project description including "the marina and rental sport-fishing opportunities." To the extent that the Project includes such features, the Project description should be revised to discuss these fully.

Further, the DMND fails to appreciate the importance of the Project site: currently, public boat launches in the area are minimal; marine resources such as the shipyard itself are limited. The Project will consume existing boat storage. Each of these resources are important and scarce. The Revised Document should discuss these resources, the Project's impacts on such resources, and any appropriate mitigation.

J. "Transportation/Traffic."

According to the DMND, the daily trips generated by the Project will increase more than double the trip generation of the existing uses: "The proposed project generates a total of 1,447 trips daily, of which 880 are new trips." DMND, Page 52, Section XV a. Further, the Traffic Study was conducted in the off peak season and using typical traffic analysis. Both of these are problematic. The off peak season analysis may distort the overall transportation impacts to local residents and visitors to the Peninsula caused by the increase in traffic. In addition, the traffic in this area of the Peninsula is not closely related to traditional AM and PM peak hours because much of it is related to tourism during the summer months.

The DMND or DEIR and the Traffic Study should analyze the above to

determine the nature and extent of the Project's impacts on traffic. If necessary, these documents should propose adequate mitigation.

In addition, the five intersections that were analyzed in the Traffic Study do not adequately address the impacts on traffic in the highly congested proposed project area. The intersections include:

Newport Boulevard and Hospital Road

Balboa Boulevard/Superior Avenue and Coast Highway

Riverside Avenue and Coast Highway

Tustin Avenue and Coast Highway

Newport Boulevard and Via Lido

Importantly, the intersection of Newport Boulevard and Via Lido, which is the only intersection that is "local" to the proposed project area, was the only intersection of those analyzed that did not pass the one percent analysis of the Traffic Study for the Project. This means that, even under the inadequate standard analysis, the peak hour traffic from the intersection of Newport Boulevard and Via Lido from the proposed project was greater than one percent of the projected background peak hour traffic.

The DMND acknowledges that the majority of the increase in traffic will have local Peninsula impacts, while providing an analysis of only one Peninsula intersection, Newport Boulevard and Via Lido: "The commercial shops are small and will have a large proportion of local trips which do not impact any of the study intersections; whereas, virtually all traffic from the residential units is assumed to leave the area." Page 52, Section XV a. The Traffic Study should also analyze the impacts of the proposed project on the intersections on heavily congested Peninsula that are nearest to proposed project and that will be greatly impacted by it; i.e., 30th Street and Newport Boulevard at 21st Street and Newport Boulevard.

The area in which the proposed project is located (and which will have the greatest impacts from the traffic generated by the proposed project) is most heavily congested during the summer months. The Traffic Study should be conducted in the summer when traffic is heaviest and parking is most scarce in the proposed project area. Further, additional intersections should be analyzed that include those close to the proposed project.

Further, the DMND notes that the Project will have no impacts on emergency services including fire and police, and that "adequate access will be provided. However, as indicated above, the DMND should be revised and/or a DEIR should be prepared which fully discuss the Project's impacts on emergency access and services including impacts on fire and police services. To the extent that impacts arise, the revised document including DEIR should propose adequate mitigation.

Also, the DMND fails to analyze the Project's parking impacts adequately. As indicated above, the DMND fails to discuss the size of the parking structure. The parking analysis indicates that:

"Parking for the proposed project will be provided by two separate underground parking structures, a surface parking lot, and on-street parking. Two way circulation is provided in both underground structures and the surface parking lot. On-site parking is provided for 142 vehicles in the underground structures and approximately 61 vehicles in the surface parking lot for a total of 203 spaces compared to a City Code requirement of 208. The proposed project increases the number of on-street parking spaces along the project frontage from 31 spaces to 32 spaces."

Even on this description which is not part of the Project description, the Project is short of spaces and relies upon street parking for over ten percent of the Project's parking. This is not acceptable. The Project area suffers from chronic under parking. The DMND should be revised or a DEIR should be prepared to provide a thorough analysis of parking demands in the area and those that result from the Project. The document should provide adequate on-site parking for the Project.

K. Mandatory Findings of Significance.

The DMND indicates that the Project will have no significant impacts on habitat for fish and will have no cumulatively considerable impacts. Both statements are conclusory and require more analysis in a subsequent document including DEIR.

First, as indicated above, the Project may have an impact on biological resources including eelgrass which is habitat for fish. The DMND should be revised or a DEIR prepared to analyze and assess this impact and, if necessary, propose mitigation.

Second, the cumulative impacts analysis is wholly inadequate. It fails to analyze any future projects including any project at Marinapark as well as plans to construct a new City Hall. The DMND should be revised or a DEIR prepared to analyze and assess this impact and, if necessary, propose mitigation.

IV. Conclusion.

For the foregoing reasons, the DMND is insufficient: we recommend the City prepare a Revised Document including a DEIR which addresses the above concerns.

[Back to top](#)

Memorandum

DRAFT

To: Sub-Committee Pacific Medical Plaza Environmental Documents
City of Newport Beach

From: The City of Costa Mesa's Notice of Preparation (the "NOP") of a Draft
Environmental Impact Report ("DEIR") for the Pacific Medical Plaza, 1626 and
1640 Newport Blvd., Costa Mesa, California (the "Project")

Date: August 13, 2003

Thank you for the opportunity to comment on the NOP for the captioned Project. In addition, we have reviewed the Initial Study ("IS"). We offer the following comments on the NOP and IS in the hopes of improving the EIR and the Project.

1. Project Description:

The EIR must recognize and appreciate the Project's proximity to and potential impacts on the City of Newport Beach. These potential impacts and issues are discussed below.

As discussed below, some of these impacts likely will be related to traffic/transportation impacts. The NOP's Project Description indicates that the Project will have two driveways on Old Newport Blvd. and on Orange Ave. The NOP notes that the Orange Ave. driveway will be limited to right turns only. However, the DEIR must also recognize the extensive limitations of Old Newport Blvd. West bound traffic from the Project will encounter limited stacking for turns in either direction on Newport Blvd; east bound traffic will encounter a right turn only land onto a severely restricted East Seventeenth St. As discussed below, the DEIR's Project description should fully discuss and analyze this circulation limitations and, if necessary, propose adequate mitigation.

In addition, the Project Description fails to include the City of Newport Beach as a responsible agency. As you know, the City has several interests which may be affected by the Project: water quality issues concerning Project related runoff and circulation issues. Others may arise.

2. Topics to be Analyzed:

The NOP lists four alternatives which include the No-Project alternative for the Project. The NOP fails to discuss the source or rationale for the limited alternatives. The DEIR should explain this rationale and consider other alternatives related to the current use, e.g. upgrading the mobile home park, entering into agreements with local agencies regarding the park for low income housing and related issues.

3. IS and Environmental Factors Potentially Affected

a. Aesthetics:

Although the NOP discusses surrounding land uses and topographic features in the San Diego Creek Watershed, the NOP fails to address the height increase of the Project: three times higher than the existing residential structures. The DEIR should address this percentage increase and address the height and shade impacts of the Project.

Further, the impacts of the Project on adjacent residences should be addressed. The DEIR should discuss and consider these impacts and the possible mitigation of such impacts with aesthetic surface treatments including landscaping.

Also, one access point to and from the Project is along Orange Ave. The Orange Ave. access point appears to rise to Orange Ave. which will mean that vehicle lights (during the winter primarily) will be aimed high into the adjacent residences. The DEIR should address this impact and provide adequate mitigation including modest sloping and angled access.

b. Air Quality:

The Project may have both short term and long term impacts on air quality. As to short term, removal of the mobile homes, excavation of the site and construction of the buildings may all contribute adversely to air quality. The DEIR should analyze these short term impacts and provide necessary mitigation.

As to long term impacts, these may include an adverse impact due to increased vehicular traffic. The DEIR should discuss this issue and, if necessary, provide mitigation.

c. Biological Resources:

d. Geologic and Soils:

The NOP states that the DEIR will not address any geologic or soils impacts because the soils of the site are relatively stable. However, as discussed below, the DEIR will address and analyze the impacts of the Project on groundwater resources. However, the presence of groundwater may affect even relatively stable soils, the DEIR should address the impacts of the Project on geology and soils given the presence of groundwater in or near the Project.

Further, the DEIR should consider and address the Project's impacts in relation to active earthquake faults including those in and near the Newport-Inglewood zone. These may pose a significant potential for strong ground shaking: the DEIR should include a discussion of the Project's design to resist such shaking.

d. Hazards and Hazardous Materials:

The NOP confusingly states that, as to the potential to create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials, "[t]his topic will be addressed in the EIR unless other issues are identified during the NOP process." NOP, page 9, (a). Presumably, this is a typographic error: if a potentially significant impact is identified in the NOP, then the DEIR must address it and, if necessary, provide mitigation.

More importantly, the NOP notes that construction activities may generate wastes subject to this section. The NOP notes that such impacts are subject to state and federal regulations and

thus need not be addressed. However, as indicated above, the current use of the site are mobile home parks. The Project includes relocation of residences. However, the NOP is silent on disposal of the individual homes. Disposal of such units together with disposal of the water and sewage lines are also part of the Project. This may also generate wastes which also require analysis in the DEIR, determination of potentially significant impacts, if any, and provision of mitigation measures, if necessary.

The NOP notes that the evacuation route for the Project is Newport Boulevard. The DEIR must discuss and analyze this evacuation, discuss how this is determined and address the impacts of this route on the transportation impacts of the Project.

e. Hydrology and Water Quality :

The NOP recognizes that the Project may have a host of impacts on water resources including drainage, storm water, surface drainage, groundwater, storm water pollution and related resources. The NOP states that a myriad of permits are necessary for the Project. However, the NOP only notes that the DEIR will address mitigation measures and standard conditions regarding water quality impacts. The DEIR must analyze the impacts of the Project on the entire spectrum of water resources including surface water, groundwater, water quality, storm water runoff and related issues.

Further, as indicated above, the NOP notes that the Project will require a multitude of permits. This requirement, applications for such permits and approval by the regulatory agencies do not constitute environmental analysis: the DEIR cannot rely on the regulatory process to analyze environmental impacts. The DEIR should analyze and address each impact subject to regulation.

The NOP recognizes that the Project may have impacts on surface drainage, storm water runoff, water quality, discharge of storm water to the Newport Bay and the Newport Harbor. The DEIR must analyze the Project impacts on such resources and related issues, and, if necessary, propose mitigation for any such impacts. In particular, the DEIR should discuss and consider use of porous pavement or pavers as well as swales and/or catch basins in order to minimize runoff and water quality impacts of the Project.

f. Land Use and Planning:

The NOP recognizes that the Project may have impacts on land use and planning including increased density and impacts on residential areas. The NOP states that the City of Costa Mesa does not regard the Project site—two of the few mobile home parks in the area— as a community. This does not constitute environmental analysis and the residents in the community may regard it as one. The DEIR should discuss the community aspect of the existing mobile home parks, identify any impacts and provide necessary mitigation.

Further, given the potential impacts from the Project's increased density and potential impacts on residential neighborhoods, the DEIR must analyze the Project's impacts and provide necessary mitigation.

More importantly and as discussed below, the DEIR must address all land use impacts of the Project including the Project's contribution to the development pattern, i.e. increased densities, elimination of residential for commercial, relocation of tenants of the existing mobile home parks to area residential units, and related trends— as well as the cumulative impacts of the

Project.

g. Noise:

The Project may have short term noise impacts caused by removal of the mobile homes, excavation of the site and construction of the buildings. The DEIR should analyze these impacts and propose necessary mitigation.

h. Population and Housing:

The NOP recognizes that the Project may have a significant impact on population and housing by displacing substantial numbers of existing housing and displacing a substantial numbers of people. The NOP indicates that the DEIR will discuss these issues. In that discussion, the DEIR must also address the type of existing housing: mobile homes and their parks provide substantial housing of lower income families and perhaps health care workers at area hospitals including Hoag Hospital as well as assisted nursing facilities. The DEIR should discuss this loss and propose adequate mitigation measures.

Perhaps an alternative use for the site would be affordable housing and perhaps the City of Newport Beach could somehow utilize the site for this use.

i. Public Services:

The NOP recognizes that the Project may have an impact on fire and police protection but not on schools and parks. As to the former, the DEIR should discuss and analyze the impacts of the Project on the City of Costa Mesa's fire and police services but also that of the City of Newport Beach.

In addition, the NOP concludes that the proposed project is not of a nature that would generate a need for park space. Although the Project may not directly impact park space, the Project may generate a demand for park/open space for employees of the Project's tenants. The DEIR should analyze such impacts and, if necessary, provide mitigation.

j. Recreation:

See our comments above in connection with Public Services.

k. Transportation and Traffic:

The NOP recognizes that the Project will have traffic impacts and indicates that a traffic study will be prepared. The DEIR and the traffic study analysis should include the following intersections: Newport Blvd. and Hospital Road; Newport Blvd. and Via Lido; Superior Ave. and Seventeenth St.; Seventeenth St. and Superior; Orange Ave. and Seventeenth St.; Orange Ave. and Fifteenth St.; Old Newport Blvd. and Seventeenth St.; Old Newport Blvd. and Fifteenth St. Further, the DEIR should include a discussion of the Project impacts on the problematic half intersections of Old Newport Blvd. and Fifteenth and Seventeenth Streets.

The NOP notes that the Project plans include 462 stalls which exceed the City's requirements of 459 stalls. However, medical buildings are chronically underparked: patients arrive and leave at various times and this lack of pattern generates parking problems on

occasion. Regardless of the NOP's conclusions, the DEIR should analyze the Project's parking plan and adequacy of the number of spaces given the type of use. If necessary, the DEIR should propose mitigation for any such impacts.

Also, the NOP notes that Orange Ave. is a Class 2 Bike Lane in the City's General Plan. However, given the Project access onto Orange Ave., this status may be threatened. The DEIR should analyze the Project's impacts on Orange Ave.'s use as a bike lane and provide necessary mitigation, if any.

1. Utilities and Service Systems:

The NOP states that the Project may require expansion or construction of new storm water drainage facilities and that such may require analysis. As part of that analysis, the DEIR should discuss and address the impacts of the construction of such facilities on the community including traffic impacts, the impacts of the operation of such facilities on water and biological resources and water quality.

Also, the Project will include various uses of water which could use recycled water. This include landscaping irrigation, rest room facilities, and related uses. The DEIR should include a discussion of the use and availability of recycled water for the Project.

m. Mandatory Findings of Significance:

The NOP indicates that the Project will have less than significant impacts on fish or wildlife habitat. However, as indicated above, such a decision may be inaccurate: the Project may have an impact on water quality which could affect habitat. The DEIR should analyze any such impacts and provide necessary mitigation.

4. Conclusion:

Thank you for the opportunity to comment on the NOP. When available, please forward copies of the DEIR to the City for review and comment.